

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2063 of 2005

Between:

C.Malini, W/o.Gopal, Fair price shop dealer,
R/o.Appecherla village, Peddavadugur Mandal,
Ananthapur District.

..... PETITIONER

AND

- 1 The Joint Collector, Anantapur District.
- 2 The Revenue Divisional officer, Anantapur, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari, calling for records in and relating to the order of the 2nd respondent in his proceedings D.Dis.D1/ CS/846/04, dated 24-1-2005 and quash the same by holding the order is arbitrary, vague and violative of principles of natural justice and to pass such other order or orders as this Hon'ble court may deems fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.K.SITA RAM

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following ORDER:

The petitioner is the fair price shop dealer of Appecherla village, Peddavadugur mandal, Ananthapur district. The Revenue Divisional Officer, Ananthapur, the second respondent, issued a show cause notice dated 12.07.2004 directing the petitioner to explain as to why her authorization shall not be suspended, in view of the allegations made therein. The petitioner submitted her explanation on 19.07.2004. On 24.07.2004, the second respondent passed an order suspending the authorization of the petitioner.

The petitioner had to file as many as three writ petitions, being W.P.Nos.13286, 17077 and 22698 of 2004, before this Court for one relief or the other. It is not necessary to refer to the reliefs claimed or orders passed therein.

The second respondent communicated to the petitioner an order dated 24.01.2005. Treating the same as an order of cancellation, the supply of essential commodities to the petitioner is stopped. Against the same, the petitioner preferred an appeal, together with an application for stay, before the first respondent. Her grievance is that no orders have been passed in the application for stay.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil supplies.

Whenever an order of cancellation is passed, the aggrieved party has to avail the remedy of appeal provided for under Clause 20 of the A.P. State Public Distribution System Control Order, 2001. On receiving the order dated 24.01.2005, the petitioner availed the same. If an authorization is cancelled, duly following the procedure, normally the question of granting any interim orders in such an appeal does not arise. The reason is that the validity or otherwise of such orders needs to be considered at the hearing of the appeal itself.

This case presents a peculiar situation. The second respondent has undertaken extensive discussion of the matter in relation to the show cause notice dated 12.07.2004 and the explanation dated 19.07.2004 submitted by the petitioner. At the concluding portion of the order, the second respondent observed as under:

“Hence, it is construed that all the charges are deliberately proved”.

It is not indicated as to whether the authorization of the petitioner is suspended or cancelled. The sentence extracted above does not indicate the nature of disposal given to the proceedings. Strictly speaking, the petitioner cannot be said to have suffered any grievance, on account of such inconclusive and incomplete orders. In fact, it cannot be said to be an order at all, because the result of the discussion is not indicated.

Further, the show cause notice dated 12.07.2004 was issued directing the petitioner to explain as to why her authorization shall not be suspended. That being the case, the question of cancelling the authorization in the proceedings initiated through the said show cause notice does not arise.

For the foregoing reasons, the writ petition is disposed of directing that the second respondent shall pass fresh orders, taking into account the purport of the show cause notice and the explanation submitted by the petitioner, clearly indicating the result of his conclusions. Since the earlier order of suspension has merged into the impugned proceedings, the authorization of the petitioner continues to be in force. In that view of the matter, she shall be entitled to be supplied the essential commodities until the second respondent passes detailed, reasoned and valid order. There shall be no order as to costs.

09.02.2005

Note:

Issue CC in three days.

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To

- 1 The Joint Collector, Anantapur District.
- 2 The Revenue Divisional officer, Anantapur, Anantapur District.
- 3 Two CCs. to the G.P. for Civil Supplies, High Court of A.P.,
Hyderabad (OUT).
- 4 Two CD copies.